

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 3/23/2021
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KAREN EUBANKS,

Plaintiff,

-v-

NEW YORK CITY DEP'T OF EDUCATION, et al.

Defendants.
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18-cv-7877 (LJL)

MEMORANDUM &
ORDER

LEWIS J. LIMAN, United States District Judge:

On February 3, 2021, Magistrate Judge Cave issued a Report and Recommendation recommending that the Court grant in part and deny in part Defendants' motion for summary judgment. Dkt. No. 70 ("Report and Recommendation"). Specifically, Judge Cave recommended granting summary judgment and dismissing Plaintiff's claims with respect to age discrimination and retaliation against all Defendants; race discrimination under 42 U.S.C. § 2000e, *et seq.* ("Title VII") as to all Defendants; race discrimination, retaliation, and hostile work environment under New York State Human Rights Law, N.Y. Exec. Law § 290, *et seq.* ("NYSHRL") and New York City Human Rights Law, N.Y.C. Admin. Code § 8-101, *et seq.* ("NYCHRL") as to Defendant New York City Department of Education ("DOE"); discrimination under NYSHRL and NYCHRL as to Defendants Ureña and Reingold; and hostile work environment under Title VII, NYSHRL and NYCHRL as to Defendants Ureña and Reingold. Judge Cave recommending denying Defendants' motion for summary judgment as to Plaintiff's claims for retaliation under Title VII as to Defendant DOE; retaliation under NYSHRL and NYCHRL as to Defendants Ureña and Reingold; and hostile work environment

under Title VII as to Defendant DOE.

On February 18, 2021, Plaintiff filed an objection to the recommendation in the Report and Recommendation that the hostile work environment claims against Ureña and Reingold be dismissed. Dkt. No. 71. Defendants filed a response on February 18, 2021, arguing that the Court should accept that recommendation. Defendants did not object to any aspect of the Report and Recommendation.

In reviewing a Magistrate Judge’s report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties are given the opportunity to raise timely objections to the report and recommendation within fourteen (14) days. *Id.* The Court reviews any portion of the report subject to an objection *de novo*; however, in the absence of any objection, the Court reviews the report and recommendation only for clear error. Fed. R. Civ. P. 72(b) Advisory Committee Notes; *Colvin v. Berryhill*, 734 F. App’x 756, 758 (2d Cir. 2018).

The Court has reviewed Judge Cave’s recommendations with respect to Plaintiff’s hostile work environment claims against Defendants Ureña and Reingold *de novo* and concludes that for the reasons stated in Judge Cave’s well-reasoned opinion, those claims should be dismissed, and Plaintiff’s objection is without merit. Plaintiff has adduced no evidence from which a reasonable jury could conclude that Ureña or Reingold engaged in any conduct that contributed to a hostile work environment; rather, Plaintiff’s hostile work environment claim is based upon the alleged conduct of students and the failure of other school administrators to adequately respond to her complaints. Nor has Plaintiff adduced evidence to create a triable issue that Ureña or Reingold failed to take appropriate remedial action in light of students’ conduct toward Plaintiff. *See Whidbee v. Garzarelli Food Specialties, Inc.*, 223 F.3d 62, 72 (2d Cir. 2000) (“[O]nce an

employer has knowledge of a racially combative atmosphere in the workplace, he has a duty to take reasonable steps to eliminate it.”) (quoting *Snell v. Suffolk County*, 782 F.2d 1094, 1104 (2d Cir.1986)). In Plaintiff’s response to Defendants’ Rule 56.1 statement, Plaintiff admits that she “never reported student harassment to AP Reingold or Principal Ureña while at Art and Design,” Dkt. No. 64 ¶ 78. Accordingly, the Court adopts the Report and Recommendation as to Plaintiff’s hostile work environment claims against Ureña and Reingold over Plaintiff’s objection.


In the absence of any objection to the remainder of the Report and Recommendation, the Court has examined such remainder for clear error and has found none.

For the foregoing reasons, it is hereby ORDERED that the Report and Recommendation is ADOPTED in its entirety. Defendants’ motion for summary judgment is GRANTED IN PART and DENIED IN PART, as described above and in the Report and Recommendation at 43-44.

IT IS FURTHER ORDERED that the Court will hold a telephonic conference on April 6, 2021 at 10:00 a.m. to set a deadline for a Joint Pre-Trial Order and a trial date on the remaining claims. At that date and time the parties are directed to dial the Court’s teleconference line at 888-251-2909 (access code: 2123101).

SO ORDERED.

Dated: March 23, 2021
New York, New York



LEWIS J. LIMAN
United States District Judge